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REMARKS

Applicant thanks the Examiner for indicated that claims 17 and 18 are allowed and that claims 19 and 20 contain allowable subject matter.

I. Introduction

Claims 1-20 are pending in the application.

Claims 1-16 stand rejected under 35 U.S.C. §101 as being drawn to non-statutory subject matter.

Claims 4, 9, 10, 12, 13, 15, 16, 19 and 20 stand rejected under 35 U.S.C. §112 ¶2.

Claims 1, 4, 5, 7, 10, 11, 14, 16, 17, 18 and 19 are the independent claims.

II. Amendments

Claims 1, 3-7, 9-16, and 19 have been amended to more clearly point out that which Applicant regards as the invention therein. The amendment to claims 3, 4, 6, 9, 10, 12, 13, 15 and 16 merely provide definitions which are implicit. For example, the term "portfolio" was explicitly defined on page 12, line 4 of the present application, and the primes were defined on page 13, line 10-11 of the present application. No new matter has been added.

III. Rejections Under 35 U.S.C. §101

Claims 1-16 stand rejected under 35 U.S.C. §101 as allegedly being drawn to non-statutory subject matter for allegedly failing to "recite any technology". Office action, page 3. The Office action cites to an unpublished board decision, *Ex parte Bowman*, 2001 Pat. App. LEXIS 46 (2001) for the proposition that a claim which lacks any specific technology is "nothing more than [an]

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abstract idea which is not tied to any technological art and is not a useful art as contemplated by the Constitution of the United States.”

Although Applicants respectfully traverse the rejection, Applicants have amended claims 1, 5, 7, 11 and 14 to recite a method of using a computer in order to expedite prosecution.

However, Applicants note that *Ex parte Bowman* is an unpublished Board decision which the Board itself did not deem appropriate to make binding precedent, and hence should not be relied on by the Office action. Moreover, the claims in *Bowman* did not recite using a computer, which was a principal factor in the Board's decision – “[t]he examiner responds that the noted guidelines [101 guidelines] are inapplicable here because appellant has not recited the use of a computer in either the specification or the claims ... We agree with the examiner, Appellant has carefully avoided tying the disclosed and claimed invention to any technological art or environment.” See, *Bowman* at 5. Furthermore, it is well established that *State Street Bank & Trust Co. v. Signature Fin. Group, Inc.*, 149 F.3d 1368 (Fed. Cir. 1998) dispensed the alleged “business method” bar to patentability in its entirety. Further in rejecting the proposition that “physical limitations” are necessary, the Court of Appeals for the Federal Circuit stated in *AT&T Corp. v. Exel Comm. Marketing, Inc.*, 172 F.3d 1352, 1359 (Fed. Cir. 1999), “the mere fact that a claimed invention involves inputting numbers, calculating numbers, outputting numbers, and storing numbers, in and of itself, would not render it nonstatutory subject matter, unless, of course, its operation does not produce a ‘useful, concrete and tangible result.’” Accordingly, claims 1-16, as amended above, clearly recite using a computer and recite a series of steps which provide useful, concrete and tangible results, and are clearly directed toward statutory subject matter.

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IV. Rejections Under 35 U.S.C. §112 ¶2

Claims 4, 9, 10, 12, 13, 15, 16, 19 and 20 stand rejected under 35 U.S.C. §112 ¶2. Claims 3, 4, 10, 12, 13, 16 have been amended to define "portfolio" in the claims and claims 3, 9, 12, 15, and 19 have been amended to define the meaning of the primes in the claims. Accordingly, the rejections thereon are believed to be moot.

Applicant further notes, in response to the question in the Office action on claims 4, 10, 13 and 16 regarding the type of claim, these claims are product claims which recite a product made according to the steps in the respectively recited method claims.

V. Conclusion

Having fully and completely responded to the Office Action, Applicants submit that all of the claims are now in condition for allowance, an indication of which is respectfully solicited. If there are any outstanding issues that might be resolved by an interview or an Examiner's amendment, the Examiner is requested to call Applicants' attorney at the telephone number shown below.

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To the extent necessary, a petition for an extension of time under 37 C.F.R. 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 500417 and please credit any excess fees to such deposit account.

Respectfully submitted,

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